

STAFF REPORT
ZONING BOARD OF ADJUSTMENT
Wednesday, August 28, 2019
5:30 p.m.
Family Living Center – Montana Expo Park
400 3rd St NW, Great Falls, MT

SUP #010-2019

Subject Property Information

Name & Address Applicant and Owner:	Michael & Danielle Funseth 308 33 rd Ave NE Great Falls, MT 59404-4201
Geo Code:	02-3138-35-1-10-53-0000
Parcel Number:	0002593800
Existing Zoning:	Urban Residential (UR) District
Legal Description:	Tract-A, Certificate of Survey 5221, Section 35, Township 21N, Range 03E
Requested Action and Purpose:	To build an accessory garage without principal use on an undeveloped lot
Total Land Area:	0.39 Acres
Adjacent Land Uses & Zoning:	North: 33 rd Ave NE, City Right of Way South: Urban Residential, vacant West: 3 rd St NE, City Right of Way East: City of Great Falls R-2, Single-family medium density
Current Land Use:	Vacant/Undeveloped
Applicable Regulations:	Section, 7.1.3.3 (1), Section 7.1.1.3 (4), and Section 10 of the Cascade County Zoning Regulations

General Information:

The Cascade County Zoning Board of Adjustment is in receipt of a Special Use Permit application from Michael & Danielle Funseth, to build a personal garage on the parcel of land located one Tract A of Certificate of Survey 5221, located in Section 35 Township 21N and Range 03E.

10.1 General Provisions

A special use is a use for which conformance to additional standards will be required and shall be deemed to be a permitted use in its respective district, subject to the standards and requirements set forth herein, in addition to other applicable requirements of these regulations.

All such uses are hereby said to possess characteristics of such unique and special forms that each specific use shall be considered as an individual case.

A special use permit may be issued only upon meeting all requirements in these regulations for a specific use which is explicitly mentioned as one of the “Uses Permitted Upon Issuance of a Special Use Permit as Provided in Section 10” within the respective zoning districts contained in Section 7 or Section 8.1.5 hereof. After the public hearing is closed, the Zoning Board of Adjustment can approve, deny, or approve with conditions the Special Use Permit. A separate Special Use Permit shall be required per each tract of land. The Special Use Permit fee shall be \$450.00.

10.4 Expiration

The Zoning Board of Adjustment approval of the Special Use Permit shall be valid for only one particular use and shall expire one year after the date of approval, if construction or the use has not started. The Zoning Administrator may grant a one-time only six (6) month extension of the Zoning Board of Adjustment approval.

The Special Use Permit shall expire if the use ceases for six (6) months for any reason. Any further extension requests must be granted by the Zoning Board of Adjustment prior to the date of expiration.

10.7 Operations

Operations in connection with the Special Use permits shall not be more objectionable to nearby properties by reason of noise, fumes, vibrations, or flashing lights, than would be the operation of any permitted use.

Findings of Fact:

1. The property is in the Urban Residential (UR) District. The proposed personal shop and storage building is allowed in the Urban Residential (UR) District pursuant to Section 7.1.3.3 (1) which reads, “*Uses permitted upon issuance of a Special Use Permit...Permitted accessory use set forth under RR-5 District regulations...May be used in UR Districts.*” And Section 7.1.1.3(4) which reads, “*Structures meeting the definition of accessory building/structure but without a principal use – residential use only.*”
2. Michael Edward Funseth and Danielle Lynn Funseth are the legal owners of the property where the personal garage building is to be located.
3. The property is not in violation of any Cascade County Zoning Regulations or any other County Ordinance, and county taxes are current.
4. Legal notice of the application and the public hearing was published in the *Great Falls Tribune* on August 18, 2019 and August 25, 2019. It was mailed to surrounding neighbors with certified letters, and to Interested Agencies on August 14, 2019. At the time of writing this report, staff has only received comment from the City of Great Falls.

5. A Special Use Permit may be revoked by the Cascade County Zoning Board of Adjustment at any time a building(s) or use(s) is deemed to be in violation of the standards and zoning requirements under which the special use permit was issued. A violation of a special use permit will be handled as any other violation under Section 13 of these regulations.
6. Appeals of the Zoning Board of Adjustment decision shall follow the process outlined in Section 12 of the Cascade County Zoning Regulations.

Findings with Respect to the Analysis Criteria

Staff provides that the following analysis, findings and conclusion for each of the required criteria and conclusions provided under the controlling sections of the Zoning Regulations.

1. Conditions may be required that the Zoning Board of Adjustment determines if implemented, will mitigate potential conflicts in order to reach these conclusions.
2. The proposed development will not materially endanger the public health or safety.

Considerations:

- a. Traffic conditions in the vicinity, including the effect of additional traffic on streets and street intersections, and sight lines at street intersection and curb cuts.

Applicant: Proposed building is not close to sight lines, will not effect traffic flow at all.

Staff: As this is an accessory use to a neighboring property, staff has not found that this would cause an increase in traffic to the area, but could be considered to redistribute the trips per day in the area. The applicant will be required to obtain a curb cut and approach from the City of Great Falls.

- b. Provision of services and utilities including sewer, water, electrical, garbage collections, and fire protection.

Applicant: Gas & Electrical already on site

Staff: This project will not need for water or wastewater connections, and adjacent gas and electrical can be connected by working with the appropriate utility company. Garbage collections for this use would likely be serviced by the applicant's primary property garbage collection service. As an accessory use, staff would anticipate the garbage generated would be minimal.

- c. Soil erosion and sedimentation.

Applicant: N/A

Staff: This property currently has a sanitary restriction on it, and will required to be reviewed by the Department of Environmental Quality for

stormwater runoff concerns. The City of Great Falls has requested to review erosion runoff during construction since that will flow into the city's stormwater conveyance system.

- d. Protection of public, community, or private water supplies, including possible adverse effects on surface waters or groundwater.

Applicant: Lot is flat. No building close by, minimal runoff is occurring now. Runoff will be directed to curb and gutter already in place.

Staff: Staff finds it unlikely that this structure will have any impact on water supplies. Adjacent water supply is from the City of Great Falls and there are no waterways in the vicinity. Stormwater impact should be negligible.

- 3. The proposed development will not substantially injure the value of adjoining property, or is a public necessity.

Considerations:

- a. The relationship of the proposed use and the character of the development to surrounding uses and development, including possible conflicts between them and how these conflicts will be resolved.

Applicant: Building will be in accordance with current surrounding properties and built to city codes and set back.

Staff: Cascade County only enforces building codes or building design standards in limited cases, such as during Floodplain development or within the Height Military Overlay District. However, given development requirements on surrounding properties in the City of Great Falls, poorly designed or visually unappealing structures can potentially impact neighboring properties. In this case, the applicant owns property adjacent to this project, and it could be reasonably expected that they would be invested in maintaining a visual appeal to the property in-line with the surrounding residences. While not required under County regulations, the applicant's stated desire to build to City code will maintain the character of the area and facilitate the possibility of future annexation.

- b. Whether the proposed development is so necessary to the public health, safety, and general welfare of the community or county as whole, to justify it regardless of its impact on the value of adjoining property.

Applicant: N/A

Staff: Planning staff has not found that this project is necessary to the public or community at large.

- 4. The proposed development will be in harmony with the area in which it is located.

Considerations:

- a. The relationship of the proposed use and the character of development to surrounding uses and development, including possible conflicts between them and how these conflicts will be resolved.

Applicant: Building will enhance the surrounding properties and landscaping will be visually aesthetic.

Staff: See responses to previous Items (3)(a) and (2)(a) in this staff report.

- b. Consistency with the municipal and joint land use plans incorporated by the Growth Policy.

Applicant: No response

Staff: This project will not create conflicts with the municipal and Joint Land Use Plan as it is only in Military Height Zone protected area and is unlikely to conflict with height requirements.

5. The proposed development will be consistent with the Cascade County Growth Policy.

Considerations:

- a. Consistency with the growth policy objectives for the various planning areas, its definitions of the various land use classifications and activity centers, and its location standards.

Goal 1: Sustain and strengthen the economic well-being of Cascade County's citizens.

- A. *Stimulate the retention and expansion of existing businesses, new businesses, value-added businesses, wholesale and retail businesses, and industries including agriculture, mining, manufacturing/processing and forest products.*

Applicant: N/A Not in a business area. Residential

- B. *Stabilize and diversify the county's tax base by encouraging the sustainable use of its natural resources.*

Applicant: Increase property value and increase in taxable value

- C. *Identify and pursue primary business development that complements existing business, which is compatible with communities, and utilizes available assets. Identify and pursue targeted business development opportunities to include, but not limited to, manufacturing/heavy industry, telecommunications, and youth/social services.*

Applicant: N/A Residential garage – clean up existing vacant lot has sat empty for 20 plus years.

- D. *Promote the development of cultural resources and tourism to broaden Cascade County's economic base.*

Applicant: N/A

- E. *Foster and stimulate well-planned entrepreneurship among the county's citizenry.*

Applicant: N/A, Not for business use.

- F. *Promote a strong local business environment. Encourage and strengthen business support mechanisms such as chambers of commerce, development organizations and business roundtable organizations.*

Applicant: N/A - Residential

- G. *Improve local trade capture for Cascade County businesses. Promote local shopping as well as well-planned businesses and new businesses.*

Applicant: N/A - Residential

- H. *Network with and support other economic development efforts in the region and statewide, in recognition of Cascade County's interdependence with other communities and to leverage available local resources.*

Applicant: No response

- I. *Encourage the growth of the agricultural economy.*

N/A – Not in an Ag related area. Residential

- J. *Stimulate the growth of the economy by encouraging the use of alternate methods of energy production, including wind energy.*

Applicant: N/A

Staff: Based on the application information provided, Staff has not found that proposed project will have an impact on Goal 1. It could be expected that a local contractor would be used to build and maintain the structure, however the accessory residential character of this use is unlikely to have a positive or negative impact on the majority of Goal 1's objectives.

GOAL 2: *Protect and maintain Cascade County's rural character and the community's historic relationship with the natural resource development.*

Objectives:

- A. *Foster the continuance of agriculture and forestry in recognition of their economic contribution and the intrinsic natural beauty of grazing areas, farmlands and forests.*

Applicant: N/A – Non-grazing or farmland. Residential.

- B. *Preserve Cascade County's scenic beauty and conserve its forests, rangelands and streams, with their abundant wildlife and good fisheries.*

Applicant: N/A – Will eliminate weeds in a Residential area.

- C. *Preserve Cascade County's open space setting by encouraging new development to locate near existing towns and rural settlements and by discouraging poorly designed, land subdivisions and commercial development.*

Applicant: In an already existing subdivision.

- D. *Assure clean air, clean water, a healthful environment and good community appearance.*

Applicant: Garage will be sided and constructed like houses nearby.

- E. *Support the development of natural resources including but not limited to timber, mining, oil and gas production, and renewable energy production.*

Applicant: N/A

- F. *Continue to work with federal and state agencies to redevelop properties within Cascade County which are currently undergoing Superfund and Brownfields process.*

Applicant: N/A

Staff: Staff finds that this proposed project is in general compliance with Goal 2. The impact to natural resources will be negligible as this project is located in an urbanized area, however this will support objective C by developing adjacent to the City of Great Falls and preserving open space outside of city limits. This is not a Superfund or Brownfield site and is unlikely to have any impact on natural resources.

GOAL 3: Maintain Agricultural economy

- A. *Protect the most productive soil types.*

Applicant: N/A

- B. *Continue to protect soils against erosion.*

Applicant: Will be developed and built to current codes and regulations.

- C. *Protect the floodplain from non-agricultural development.*

Applicant: N/A – Not in floodplain.

- D. *Support the development of value-added agricultural industry in Cascade County utilizing the products from the regional area.*

Applicant: N/A Residential Development in a subdivided area.

Staff: As an accessory residential development this project does not support Goal 3, however it is not detrimental to the Goal either. The Certificate of Subdivision Approval from the Department of Environmental Quality that will be obtained for the property will mitigate concerns related to erosion. This property is not in the floodplain.

GOAL 4: Retain the presence of the US Military in Cascade County.

Objectives:

A. Encourage the federal congressional delegation to actively support maintaining the current mission status at a minimum.

Applicant: N/A

B. Promote the location of additional military missions in Cascade County.

Applicant: N/A

C. Encourage the reactivation of the runway at Malmstrom Air Force Base for fixed wing operations.

Applicant: N/A

D. Refer to the Joint Land Use Study for resolving conflicts and promoting mission compatible development.

Applicant: N/A

Staff: Staff finds that this proposal is unlikely to have an impact on Goal 4. The project lies in the Height Military Overlay District – F (Outer Horizontal Surface) which prohibits development 500 feet above the helicopter runway at Malmstrom (elevation 3526 ft). The elevation of this property is approximately 3510 feet, well under the height ceiling.

GOAL 5: Preserve and enhance the rural, friendly and independent lifestyle currently enjoyed by Cascade County's citizens.

Objectives:

A. Maintain Cascade County's citizens independent lifestyle and minimize local governmental intervention, to the extent possible, consistent with the requirements of a continually evolving economy and constantly changing population.

Applicant: Enhances county lot within city boundaries others deemed unuseful.

- B. *Preserve and promote Cascade County's rich cultural heritage, rooted in natural resource development and reflected in its numerous cultural/historic sites and archaeological areas.*

Applicant: N/A

- C. *Promote fire prevention measures throughout the county, giving special emphasis to the extreme fire hazards present at the wild land/urban interface.*

Applicant: Lot will have sprinkler system – grass & landscape.

- D. *Encourage the continued development of educational programs and facilities, recreational opportunities and spaces and health services for all county residents.*

Applicant: N/A

Staff: The property is located within the Black Eagle Volunteer Fire Department's jurisdiction. The proposed personal garage building should not positively or negatively impact the rural, friendly and independent lifestyle currently enjoyed by Cascade County's citizens.

Section 10.7 Operations

Operations in connection with the Special Use permits shall not be more objectionable to nearby properties by reason of noise, fumes, vibrations, or flashing lights, than would be the operation of any permitted use.

From the application information submitted, the applicant's proposed personal garage building will not be more objectionable to nearby properties than current allowed uses within the Urban Residential District.

Motions:

The following motions are provided for the board's consideration:

- A. Alternative 1: Move the Special Use Permit to allow the construction of a personal garage on the property legally described as Tract A of Certificate of Survey 5221 be **denied** due to (ZBOA member proposing denial must delineate legal reason that the application be denied); or
- B. Alternative 2: Move the Board to adopt the staff report and **approve** the Special Use Permit to allow the construction of a personal garage on the property legally described as Tract A of Certificate of Survey 5221, subject to the following conditions:
 - 1. The applicant obtains any other required county, state, or federal permits and comply with regulations associated with any other permits.
 - 2. The applicant obtains an approach and curb-cut from the City of Great Falls Public Works.

3. The applicant must obtain a Certificate of Subdivision Approval from the Department of Environmental Quality to lift the sanitary restriction placed on the tract by Certificate of Survey 5221.
4. Allow City of Great Falls Environmental Division to review run-off during construction.

Attachments:

- Special Use Permit Application, Operational Use Statement Checklist
- Vicinity Map
- Certificate of Survey 5221
- Site Plan

c: Michael & Danielle Funseth